

the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present in an amount greater than is actually the case. The following requirements shall apply unless modified by a specific regulation in subpart B of this part.

(1) The percentage of a characterizing ingredient or component shall be declared on the basis of its quantity in the finished product (i.e., weight/weight in the case of solids, or volume/volume in the case of liquids).

(2) The percentage of a characterizing ingredient or component shall be declared by the words “containing (or contains) \_\_\_ percent (or %) \_\_\_\_\_” or “\_\_\_ percent (or %) \_\_\_\_\_” with the first blank filled in with the percentage expressed as a whole number not greater than the actual percentage of the ingredient or component named and the second blank filled in with the common or usual name of the ingredient or component. The word “containing” (or “contains”), when used, shall appear on a line immediately below the part of the common or usual name of the food required by paragraph (a) of this section. For each characterizing ingredient or component, the words “\_\_\_ percent (or %) \_\_\_\_\_” shall appear following or directly below the word “containing” (or contains), or directly below the part of the common or usual name of the food required by paragraph (a) of this section when the word “containing” (or contains) is not used, in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(i) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(ii) Not less than one-half the height of the largest type appearing in the part of the common or usual name of the food required by paragraph (a) of this section.

(c) The common or usual name of a food shall include a statement of the presence or absence of any characterizing ingredient(s) or component(s) and/or the need for the user to add any characterizing ingredient(s) or component(s) when the presence or absence of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present when it is not, and consumers may otherwise be misled about the presence or absence of the ingredient(s) or component(s) in the food. The following requirements shall apply unless modified by a specific regulation in subpart B of this part.

(1) The presence or absence of a characterizing ingredient or component shall be declared by the words “containing (or contains) \_\_\_\_\_” or “containing (or contains) no \_\_\_\_\_” or “no \_\_\_\_\_” or “does not contain \_\_\_\_\_”, with the blank being filled in with the common or usual name of the ingredient or component.

(2) The need for the user of a food to add any characterizing ingredient(s) or component(s) shall be declared by an appropriate informative statement.

(3) The statement(s) required under paragraph (c)(1) and/or (2) of this section shall appear following or directly below the part of the common or usual name of the food required by paragraphs (a) and (b) of this section, in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the alternatives established under paragraphs (b)(2) (i) and (ii) of this section.

(d) A common or usual name of a food may be established by common usage or by establishment of a regulation in subpart B of this part, in part 104 of this chapter, in a standard of identity, or in other regulations in this chapter.

#### § 102.19 Petitions.

(a) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may publish

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a proposal to issue, amend, or revoke, under this part, a regulation prescribing a common or usual name for a food, pursuant to part 10 of this chapter.

(b) If the principal display panel of a food for which a common or usual name regulation is established is too small to accommodate all mandatory requirements, the Commissioner may establish by regulation an acceptable alternative, e.g., a smaller type size. A petition requesting such a regulation, which would amend the applicable regulation, shall be submitted pursuant to part 10 of this chapter.

[42 FR 14322, Mar. 15, 1977, as amended at 42 FR 15673, Mar. 22, 1977]

### Subpart B—Requirements for Specific Nonstandardized Foods

#### § 102.22 Protein hydrolysates.

The common or usual name of a protein hydrolysate shall be specific to the ingredient and shall include the identity of the food source from which the protein was derived.

(a) “Hydrolyzed wheat gluten,” “hydrolyzed soy protein,” and “autolyzed yeast extract” are examples of acceptable names. “Hydrolyzed casein” is also an example of an acceptable name, whereas “hydrolyzed milk protein” is not an acceptable name for this ingredient because it is not specific to the ingredient (hydrolysates can be prepared from other milk proteins). The names “hydrolyzed vegetable protein” and “hydrolyzed protein” are not acceptable because they do not identify the food source of the protein.

(b) [Reserved]

[58 FR 2876, Jan. 6, 1993]

#### § 102.23 Peanut spreads.

(a) The common or usual name of a spreadable peanut product that does not conform to §164.150 of this chapter, and more than 10 percent of which consists of nonpeanut ingredients, shall consist of the term “peanut spread” and a statement of the percentage by weight of peanuts in the product in the manner set forth in §102.5(b), except that peanut percentages shall be based on the amount of peanuts used to make

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the finished food and shall be declared in 5-percent increments expressed as a multiple of 5, not to exceed the actual percentage of peanuts in the products.

(b) A spreadable peanut product that is nutritionally inferior to peanut butter shall be labeled as an imitation of peanut butter under §101.3(e)(2) of this chapter; a spreadable peanut product shall be considered nutritionally equivalent to peanut butter if it meets all of the following conditions:

(1) *Protein.* (i) The protein content of the product is at least 24 percent by weight of the finished product, and the overall biological quality of the protein contained in the product is at least 68 percent that of casein; or

(ii) The protein content of the product is at least 16.6 percent by weight of the finished product, and the overall biological quality of the protein contained in the product is equal to or greater than that of casein.

(2) *Other nutrients.* The product contains the following levels of nutrients per 100 grams of product:

Nutrient	Amount (milligrams)
Niacin .....	15.3
Vitamin B <sub>6</sub> .....	0.33
Folic acid .....	0.08
Iron .....	2.0
Zinc .....	2.9
Magnesium .....	173.0
Copper .....	0.6

(c) Compliance with the requirements of paragraph (b) of this section shall be determined by methods described in the following references except that in determining protein quantity in products with mixed protein sources a nitrogen conversion factor of 6.25 may be used.

(1) Protein quantity: “Official Methods of Analysis of the Association of Official Analytical Chemists” (AOAC), 13th Ed. (1980), using the method described in section 27.007, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists International, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877–2504, or may be examined at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or